

**CHAPTER 465-X-1
DEFINITIONS**

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Definition of Terms

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Definition Of Terms.

(1) Code of Ala. 1975, § 34-14A-2, provides for definitions of the following terms: Board, Residential Home Builder, Home Builders Licensure Board, Homeowner, Contracting, Licensee, License, Inactive License, Person, Residence, Structure, and Transaction. Residential remodelers are included within the definition of "Residential Home Builder."

(2) Act. The term "Act" as used in these rules shall mean Title 34, Chapter 14A of the Code of Ala. 1975 regulating the home building and home improvement industries.

(3) Alabama Administrative Procedure Act. The term "Alabama Administrative Procedure Act" refers to the act codified at Title 41, Chapter 22 of the Code of Ala. 1975.

(4) Homeowners' Recovery Fund. The term "Homeowners' Recovery Fund" as used in these rules shall mean that special fund deposited into the State Treasury and held by the Board in trust for the purpose of carrying out the provisions of Section 15 of the Act.

(5) Violation of the Act. The term "violation of the Act" as used in these rules shall mean any of the following:

(a) That a licensee:

1. has committed fraud or deceit in obtaining a license,
2. is guilty of gross negligence, incompetence, or misconduct in the practice of residential home building,
3. has failed to maintain a valid license,
4. has performed residential construction activity outside or beyond the scope of the license issued,
5. has violated any applicable building law or code adopted by a county or municipality pursuant to Section 12 of the Act, or
6. has failed to repay any amount paid out of the Homeowners' Recovery Fund on behalf of the licensee; or

(b) That a residential home builder has failed to procure a valid license.

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(6) The term "gross negligence" as used in Code of Ala. 1975, § 34-14A-8, shall mean engaging in the business of residential home building by a licensee (including by its duly authorized agent), characterized by that licensee's reckless disregard for the rights, safety, or welfare of homeowners, which could result in injury or damage to life or property or financial loss.

(7) The term "incompetence" as used in Code of Ala. 1975, § 34-14A-8, shall mean engaging in the business of residential home building by a licensee (including by its duly authorized agent) who fails to perform in a reasonable manner under the standard used in that community for residential home building, including but not limited to the proper supervision of subcontractors.

(8) The term "misconduct" as used in Code of Ala. 1975, § 34-14A-8, shall mean engaging in the business of residential home building by a licensee who intentionally makes any assertions or representations which are fraudulent, deceitful, or misleading to a homeowner or otherwise knowingly or intentionally engages in conduct which is fraudulent, deceitful or misleading to a homeowner. Misconduct of a licensee also includes but is not limited to knowingly or intentionally falsely representing itself as the residential home builder in charge of residential construction, including but not limited to, purchasing building permits for unlicensed builders, or otherwise assisting unlicensed builders in the business of residential home building through the use of its license.

(9) The term "cost of the undertaking" as used in Code of Ala. 1975, § 34-14A-2(10) shall mean the total cost of the materials, labor, supervision, overhead and profit.

(10) The term "repair, improvement, or reimprovement" as used in Code of Ala. 1975, § 34-14A-2(10) shall mean engaging in the business of residential homebuilding by contracting directly with a homeowner to perform construction on a residence or structure, when the cost of the undertaking exceeds \$10,000, and when the construction does not affect the structural integrity of a residence or structure, or does not involve more than one trade. Repair, improvement, or reimprovement does not include construction activities performed by persons who are otherwise licensed and regulated by the State of Alabama and who are operating within the scope of their respective licenses on behalf of clients.

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Statutory Authority: Code of Ala. 1975, §§ 34-14A-1, 34-14A-2, 34-14A-8, 34-14A-11, 34-14A-14, 34-14A-15.

History: New Rule: Filed May 12, 1993, effective June 16, 1993. **Amended:** Filed April 2, 1997; effective May 7, 1997. Amendment and Emergency Amendment filed October 1, 1997; Emergency Amendment effective October 1, 1997. **Amended:** Filed January 28, 1998; effective March 4, 1998.

Amended: Filed May 6, 2002; effective June 10, 2002. Emergency Amendment: Filed May 31, 2011.

Amended: Filed August 25, 2011; effective September 29, 2011.